

REMARKS

Claims 1-86 and 96-99 were previously cancelled. Claims 87-95 and 109 are withdrawn. Claims 100-107 and 111-118 were previously presented. Claims 108 and 110 are currently amended. Upon entry of the amendment, claims 87-95 and 100-118 will be pending with claims 100-108 and 110-118 under active consideration. The amendments to claims 108 and 110 are supported by example 7 on pages 48 and 49 of the specification. No new matter has been added.

The Office rejected claims 100-108 and 110-118 under 35 U.S.C. § 112, second paragraph. The Office rejected claims 100, 101, 108 and 110-112 under 35 U.S.C. § 103(a) over Rosen (U.S. 5,423,160) in view of Kato (U.S. 5,198,175) or Boardman (U.S. 4,244,915). The Office rejected claims 100-108 and 110-118 under 35 U.S.C. § 103(a) over Huang (U.S. 5,439,628) in view of Mitsuno (EP 0243206) and Watkins (U.S. 5,514,315). The Office rejected claims 102-107 and 113-118 under 35 U.S.C. § 103(a) over Rosen in view of Kato or Boardman and further in view of Huang. The Office rejected claims 100-103, 105-108, 110-114 and 116-118 under 35 U.S.C. § 103(a) over Fukui (U.S. 5,100,930) in view of Simon (U.S. 5,300,747) and Rosen and in view of Kato or Boardman. Finally, the Office rejected claims 104 and 115 under 35 U.S.C. § 103(a) over Fukui in view of Simon and Rosen and Kato or Boardman and further in view of Reinforcements (non fibrous) (Modern Plastics, July 1979, pages 45-46).

Applicants submit that the claims would not have been rendered unpatentable over the cited references because the combination of references cited by the Office do not teach or suggest all the limitations of the claimed method and because the references teach away from the claimed method. In addition, the specification presents proof of unexpected results that rebuts any *prima facie* case of obviousness.

The disclosure relates to a process for preparing a container having a micronodular surface. The process involves, in part, providing at least one extruded sheet prepared from a mixture of mica and a polyolefin then thermoforming the sheet at a temperature of about 265°F

to 305°F. In addition, the at least one extruded sheet is a matte extruded sheet formed by utilizing a matte roll in the chill roll stack portion of the extrusion process.

As discussed in example 7 given in the specification, use of a non-matte extruded sheet limits the thermoforming process temperature to about 295°F to 305°F in order to achieve a desirable micronodular texture. Unexpectedly, Applicants have discovered that the thermoforming process temperature range can be broadened to about 265°F to 305°F by use of a matte extruded sheet. The matte extruded sheet is produced by use of a matte roll in the chill roll stack portion of the extrusion process. The process allows for the production of a desirable micronodular texture at a much larger temperature range (a 40°F range versus a 10°F range).

Applicants submit that this proof of unexpected results rebuts any *prima facie* case of obviousness (see MPEP 2145 (V11)). For this reason, Applicants submit that the claimed process would not have been obvious over the cited references, and accordingly, Applicants respectfully request that the Office withdraw the rejections under 35 U.S.C. § 103(a) over the cited references.

Alternatively, Applicants submit that the cited references do not teach or suggest all the limitations of the claimed process and the references teach away from the claimed process.

Rosen describes a method of providing interiorly sterile cup or beaker shaped containers. The thermoforming temperature in the method is at least 190°C (374°F). This thermoforming temperature is well above the claimed range of about 265°F to 305°F. In addition, Rosen specifically teaches away from thermoforming temperatures in the range of 110°C-160°C (230-320°F) (column 1, lines 39-52). Rosen states that this temperature range gives "...unacceptably long stay times ..." that must be avoided (column 1, lines 46 and 47). Consequently, Rosen, which the Office principally relies upon, teaches away from the claimed temperature range. Such a teach away is indicative of non-obviousness (see MPEP 2145 (X)(D)(1)). In addition, Rosen does not teach or suggest the claimed at least one matte extruded sheet formed with a matte roll.

Kato describes a process for producing a deep-drawn plastic container (abstract). However, Kato does not teach or suggest the claimed thermoforming temperature range or the at least one matte sheet. In addition, Kato teaches away from the claimed range by utilizing a

thermoforming temperature in the range of 180°C to 190°C (356°F to 374°F) (column 9, line 6).

Boardman describes a thermoforming process and apparatus (abstract). However, Boardman does not make up for the deficiencies of Rosen and Kato as discussed above. Applicants submit that the combination of Rosen, Kato and Boardman does not teach or suggest all the limitations of the claimed method and actually teaches away from the claimed method. Therefore the claimed method would not have been obvious over the combination of these references. Accordingly, Applicants respectfully request that the Office withdraw the rejections of claims 100, 101, 108 and 110-112 under 35 U.S.C. § 103(a) over these references.

Huang describes a method for producing polypropylene film and sheet. Huang generically describes thermoforming, however, Huang provides no details with regard to the thermoforming process. Accordingly, Huang does not teach or suggest all the limitations of the claimed method.

Mitsuno describes a process for producing a filler-containing polypropylene resin composition (description). However, Mitsuno provides no thermoforming process details and therefore, does not make up for the deficiencies of Huang.

Watkins describes a process of forming a spa shell (abstract). Watkins utilizes a thermoforming temperature of 340°F which is well above the claimed thermoforming temperature. In addition, Watkins does not teach or suggest at least one matte extruded sheet. Therefore Watkins fails to make up for the deficiencies of Huang and Mitsuno.

Therefore, Applicants submit the combination of Huang, Mitsuno and Watkins does not teach or suggest all the limitations of the claimed method and the references actually teach away the claimed method. Therefore, the claimed method would not have been obvious over the references, and accordingly, Applicants respectfully request that the Office withdraw the rejection of claims 100-108 and 110-118 under 35 U.S.C. § 103(a) over Huang, Mitsuno and Watkins.

Based on the discussion above regarding Rosen, Kato, Boardman and Huang, Applicants submit that the combination of these references does not render claims 102-107 and

113-118 unpatentable under 35 U.S.C. § 103(a) over the combination of these references. Accordingly, Applicants respectfully request that the Office withdraw this rejection.

Fukui describes a food container composed of a resin composition (abstract). However, Fukui does not teach or suggest the claimed thermoforming temperature range or the claimed at least one matte extruded sheet.

Simon describes a composite material for use in a microwave container (abstract). However, Simon does not teach or suggest the claimed thermoforming temperature range or the claimed at least one matte extruded sheet.

The Office relies on Rosen, Kato and Boardman to make up for the deficiencies of Fukui and Simon. However, as discussed above, these references do not teach or suggest all the limitations of the claimed method and, in fact, teach away from the claimed method. Therefore, the claimed method would not have been obvious over the combination of Fukui, Simon, Rosen and Kato or Boardman, and accordingly, Applicants respectfully request that the Office withdraw the rejection of claims 100-103, 105-108, 110-114 and 116-118 under 35 U.S.C. § 103(a) over these references.

Finally, in view of the discussion above, Applicants respectfully request that the Office withdraw the rejection of claims 104 and 115 under 35 U.S.C. § 103(a) over the combination of Fukui, Simon, Rosen and Kato or Boardman and further in view of Reinforcements. Applicants submit that Reinforcements does not make up for the deficiency of the cited references as discussed above.

Lastly, Applicants submit that the rejection of claims 100-108 and 110-118 under 35 U.S.C. § 112, second paragraph has been obviated by amendment. Accordingly, Applicants respectfully request that the Office withdraw the rejection.

In light of the remarks above, Applicants submit the application is in condition for allowance. Favorable reconsideration is respectfully requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully submitted,

CANTOR COLBURN LLP

By: /Donald K. Drummond, Ph.D./
Donald K. Drummond, Ph.D.
Registration No. 52,834

Date: January 15, 2009

CANTOR COLBURN LLP
1800 Diagonal Road, Suite 510
Alexandria, VA 22314
Telephone (703) 236-4500, Ext. 4106
Facsimile (703) 236-4501